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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,107	12/24/2003	Steven M. Bryant	86631F-P	6924

7590 08/31/2009

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EXAMINER	
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ART UNIT	PAPER NUMBER
3625	

MAIL DATE	DELIVERY MODE
08/31/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/748,107	BRYANT, STEVEN M.	
	Examiner	Art Unit	
	RESHA DESAI	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 June 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20 and 22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20 and 22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

Applicant's amendments filed 15 June 2009 have been received and reviewed. The status of the claims is as follows:

Claims 1-20, and 22 are pending.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 22 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

A claimed process is eligible for patent protection under 35 U.S.C. § 101 if:

> "(1) it is tied to a particular machine or apparatus, or (2) it transforms a particular article into a different state or thing. See Benson, 409 U.S. at 70 ('Transformation and reduction of an article 'to a different state or thing' is the clue to the patentability of a process claim that does not include particular machines.'); Diehr, 450 U.S. at 192 (holding that use of mathematical formula in process 'transforming or reducing an article to a different state or thing' constitutes patent-eligible subject matter); see also Flook, 437 U.S. at 589 n.9 ('An argument can be made [that the Supreme] Court has only recognized a process as within the statutory definition when it either was tied to a particular apparatus or operated to change materials to a 'different state or thing' '); Cochrane v. Deener, 94 U.S. 780, 788 (1876) ('A process is...an act, or a series of acts, performed upon the subject-matter to be transformed and reduced to a different state or thing.').[7] A claimed process involving a fundamental principle that uses a particular machine or apparatus would not pre-empt uses of the principle that do not also use the specified machine or apparatus in the manner claimed. And a claimed process that transforms a particular article to a specified different state or thing by applying a fundamental principle would not pre-empt the use of the principle to transform any other article, to transform the same article but in a manner not covered by the claim, or to do anything other than transform the specified article." (*In re Bilski, 88 USPQ2d 1385, 1391 (Fed. Cir. 2008))*

Regarding claim 22, based upon the Court of Appeals for Federal Circuit's recent decision, in order to qualify as a statutory process (i.e. method), a method claim must meet a specialized, limited meaning to qualify as a patent-eligible process claim. The test for a method

is whether the claimed method is (1) tied to a particular machine or apparatus, or (2) transforms a particular article to a different state or thing. In addition, mere field of use limitations or limitations reciting insignificant extra-solution activity will not transform an unpatentable process into a patentable one as the machine or transformation must impose meaningful limits on the method claim's scope. This means that reciting a particular machine or transformation in an insignificant step (e.g. data gathering, outputting, displaying, receiving, and the like) will not move to make an unpatentable process patentable.

With regards to claim 22, the applicant's method steps fail the first prong of the new Federal Circuit decision since they are not tied to a machine and can be performed without the use of a particular machine. The claim is thereby directed to non-statutory subject matter.

Claim 22 is therefore non-statutory under § 101. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-4, 9, 12-15 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shiimori et al. (US 2002/0091766 A1) in view of McIntyre (US 2003/0007200 A1).

Claim 1 –

As per Claim 1, Shiimori discloses a method for publishing images at a website couopled to a communication network and for ordering goods and/or services to be provided by a fulfillment provider coupled to the communication network with respect to images stored at said fulfillment provider, comprising the steps of:

- said fulfillment provider (image sharing server **40** in Fig. 1) receiving a digital image from a user device (client (contributor) **20** in Fig. 1**)** over the communication network, the user device coupled to the communication network (internet **60** in Fig. 1); (see paragraphs 65, 91 and 92; Fig. 1)
- said fulfillment provider (image sharing server **40** in Fig. 7 and 9) storing said digital image including associating a unique ID (contributor ID in Fig. 7-10) with said digital image, said unique ID identifying both a storage location (image location in Fig. 10) of said digital image and an internet address (image location in Fig. 10) of the fulfillment provider; (see paragraphs 85, 87, 90, 93 and 94; Fig. 7-10)
- forwarding said unique ID over the communication network to said user device; (see contributor ID in paragraph 88; Fig. 7 and 8)
- said website (image viewer **170**) receiving over the communication network from said user device a low resolution image copy (thumbnail images **174**) of said image and said unique ID; (see paragraph 149; Fig. 18)
- said website providing over the communication network said low resolution image (thumbnail images **174**) along with an action button (menu button **171**) that is associated with said unique ID; (see paragraphs 149-151; Fig. 18) and

- forwarding to a network connected viewing device over the communication network an order screen from said fulfillment provider (service provider) when said action button (menu button **171**) is selected by said viewing device (image viewer **170**) so that the viewing device will be able to place an order over the communication network directly with said fulfillment provider for goods and/or services with respect to said image stored by said fulfillment provider. (see paragraphs 149-151; Fig. 18)

Shiimori et al. does not explicitly disclose:

- said fulfillment provider receiving a high resolution digital image from a user device over the communication network;

McIntyre teaches a fulfillment provider (element **70**) receiving a high resolution digital image from a user device over a communication network (element **50**) (see paragraph [0070]; Fig. 1 of McIntyre). The "said image" in the later steps of claim 1 will be referring to the high resolution digital image of McIntyre. It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Shiimori et al. to include a high resolution digital image as taught by McIntyre. One of ordinary skill in the art at the time of the invention would have been motivated to expand the system of Shiimori et al. in this way for producing printed images, the printed pictures having improved image detail (see at least paragraph 13 of McIntyre).

Claim 2 –

Shiimori et al. in view of McIntyre teaches the system of claim 1 as described above.

Shiimori et al. further discloses a method having the limitations of:

- wherein the service to be provided by said fulfillment provider comprises printing, emailing, sharing or providing a high resolution copy of said high resolution image. (see menu buttons **171** in paragraph 151; Fig. 18 of Shiimori et al.)

Claim 3 –

Shiimori et al. in view of McIntyre teaches the system of claim 1 as described above.

Shiimori et al. further discloses a method having the limitations of:

- wherein said selection of said action button (menu buttons **171**) automatically results in printing (printing service order) a high resolution compy of said high resolution digital image. (see paragraphs 149-151; Fig. 18 of Shiimori et al.)

Claim 4 –

Shiimori et al. in view of McIntyre teaches the system of claim 1 as described above.

Shiimori et al. further discloses a method having the limitations of:

- wherein said website (service site) and said fulfillment provider (printing service provider) are the same site. (see paragraph 123 of Shiimori et al.)

Claim 9 –

Shiimori et al. in view of McIntyre teaches the system of claim 1 as described above.

Shiimori et al. discloses a method having the limitation of:

- wherein a capture device (electronic camera **160**) automatically identifies a digital image (see paragraph 147 and Fig. 17 of Shiimori et al.)

Shiimori et al. does not disclose:

- for automatic transfer to said website and fulfillment provider.

McIntyre teaches wherein automatic transfer to said accessible website (service provider **80**) and fulfillment provider (fulfillment provider **70)** (see paragraphs 56 and 65 of McIntyre). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Shiimori et al. in view of McIntyre to automate the transfer of the digital image to the accessible website and fulfillment provider. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Shiimori et al. in view of McIntyre in this way so that the user would not have to take the time to upload each and every image that he or she wishes to print or electronically share (see at least paragraph 13 of McIntyre).

Claim 12 –

As per Claim 12, Shiimori discloses a computer readable medium tangibly embodying a program executable by the computer to perform method steps for publishing images at a website coupled to a communication network and for ordering goods and/or services to be provided by a fulfillment provider also coupled to the communicating network with respect to images stored at said fulfillment provider, said program which when loaded and executed on the computer will cause the computer to perform said method steps, said method steps comprising:

- forwarding a digital image from a network coupled user device (client (contributor) **20** in Fig. 1**)** over the communication network (internet **60** in Fig. 1) to said fulfillment provider (image sharing server **40** in Fig. 1); (see paragraphs 65, 91 and 92; Fig. 1)
- said fulfillment provider (image sharing server **40** in Fig. 7 and 9) storing said digital image and associating a unique ID (contributor ID in Fig. 7-10) with said image, said unique ID identifying both a storage location (image location in Fig. 10) of where said image is stored and an internet address (image location in Fig. 10) of said fulfillment provider; (see paragraphs 85, 87, 90, 93 and 94; Fig. 7-10)
- receiving over the network from said fulfillment provider (image sharing server **40**) said unique ID (contributor ID) associated with said image; (see contributor ID in paragraph 88; Fig. 7 and 8)
- forwarding over the network to said website (image viewer **170**) from said user device a low resolution image copy (thumbnail images **174**) of said image and said unique ID; (see paragraph 149; Fig. 18)

- said website publishing said low resolution image (thumbnail images **174**) on the communication network along with an action button (menu button **171**) that is associated with said unique ID; (see paragraphs 149-151; Fig. 18)
- wherein selection of said action button (menu button **171**) by a viewing device (image viewer **170**) coupled to the communication network causes said viewing device to receive over the network an order screen from the fulfillment provider so that the viewer will be able to place an order over the network directly with said fulfillment provider (service provider) for ordering goods and/or services from the fulfillment provider with respect to said image stored by said fulfillment provider. (see paragraphs 149-151; Fig. 18)

Shiimori et al. does not explicitly disclose:

- forwarding a high resolution digital image from a user device over a communication network to said fulfillment provider;

McIntyre teaches a fulfillment provider (element **70**) receiving a high resolution digital image from a user device over a communication network (element **50**) (see paragraph [0070]; Fig. 1 of McIntyre). The "said image" in the later steps of claim 1 will be referring to the high resolution digital image of McIntyre. It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Shiimori et al. to include a high resolution digital image as taught by McIntyre. One of ordinary skill in the art at the time of the invention would have been motivated to expand the system of Shiimori et al. in this way for producing printed images, the printed pictures having improved image detail (see at least paragraph 13 of McIntyre).

Claim 13 –

Shiimori et al. in view of McIntyre teaches the computer readable medium of claim 12 as described above.

Shiimori et al. further discloses a method having the limitations of:

- wherein the service being provided by said service provider comprises printing, emailing, sharing or obtaining the high resolution copy of said image. (see menu buttons **171** in paragraph 151; Fig. 18 of Shiimori et al.)

Claim 14 –

Shiimori et al. in view of McIntyre teaches the computer readable medium of claim 12 as described above.

Shiimori et al. further discloses a method having the limitations of:

- wherein said selection of said selection button (menu buttons **171**) automatically results in obtaining a hard copy print (printing service order) that uses the high resolution image stored in said memory. (see paragraphs 149-151; Fig. 18 of Shiimori et al.)

Claim 15 –

Shiimori et al. in view of McIntyre teaches the computer readable medium of claim 12 as described above.

Shiimori et al. further discloses a method having the limitations of:

- wherein said accessible website (service site) and fulfillment provider (printing service provider) are the same site. (see paragraph 123 of Shiimori et al.)

Claim 19 –

Shiimori et al. in view of McIntyre teaches the computer readable medium of claim 12 as described above.

Shiimori et al. discloses a method having the limitation of:

- wherein a capture device (electronic camera **160**) automatically identifies a digital image (see paragraph 147 and Fig. 17 of Shiimori et al.)

Shiimori et al. does not disclose:

- for automatic transfer to said accessible website and fulfillment provider

McIntyre teaches wherein an automatic transfer to said accessible website (service provider **80**) and fulfillment provider (fulfillment provider **70)** (see paragraphs 56 and 65 of McIntyre). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Shiimori et al. in view of McIntyre to automate the transfer of the digital image to the accessible website and fulfillment provider. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Shiimori et al. in view of McIntyre in this way so that the user would not have to take the time to upload each and every image that he or she wishes to print or electronically share (see at least paragraph 13 of McIntyre).

Claims 5 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shiimori et al. in view of McIntyre, as applied to claim 1 above, further in view of Wang et al. (US 6,058,428).

Claim 5 –

Shiimori et al. in view of McIntyre teaches the system of claim 1 as described above.

Shiimori et al. in view of McIntyre does not explicitly disclose a method having the limitation of:

- wherein said one or more images are published as said website in an HTML format.

Wang et al. teaches wherein said one or more images are published as said accessible website in an HTML format (see col. 5, ll. 11-23). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Shiimori et al. in view of McIntyre to publish the accessible website in an HTML format as taught by Wang et al. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Shiimori et al. in view of McIntyre in this way since HTML files may have insertion points for various digital images such as those acquired from a digital camera (see col. 2, ll. 1-3 of Wang).

Claim 16 –

Shiimori et al. in view of McIntyre teaches the computer readable medium of claim 12 as described above.

Shiimori et al. in view of McIntyre does not explicitly disclose a method having the limitation of:

- wherein said one or more images are published as said accessible website in an HTML format.

Wang et al. teaches wherein said one or more images are published as said accessible website in an HTML format (see col. 5, ll. 11-23). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Shiimori et al. in view of McIntyre to publish the accessible website in an HTML format as taught by Wang et al. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Shiimori et al. in view of McIntyre in this way since HTML files may have insertion points for various digital images such as those acquired from a digital camera (see col. 2, ll. 1-3 of Wang).

Claims 6 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shiimori et al. in view of McIntyre, as applied to claim 1 above, further in view of Robinson et al. (US 2002/0065844 A1).

Claim 6 –

Shiimori et al. in view of McIntyre teaches the system of claim 1 as described above.

Shiimori et al. in view of McIntyre does not explicitly disclose a method having the limitation of:

- wherein said image is provided to said website and said service provider in a JPEG format.

Robinson et al. teaches wherein said image (image data **54**) is provided to said website (photo service site **16**) and said service provider in a JPEG format (see at least paragraphs 14 and 17 of Robinson et al.) It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Shiimori et al. in view of McIntyre to provide the image in a JPEG format as taught by Robinson et al. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Shiimori et al. in view of McIntyre in this way since image data is typically stored in JPEG format (see paragraph 17 of Robinson et al.).

Claim 17 –

Shiimori et al. in view of McIntyre teaches the computer readable medium of claim 12 as described above.

Shiimori et al. in view of McIntyre does not explicitly disclose a method having the limitation of:

- wherein said image is provided to said website and said service provider in a JPEG format.

Robinson et al. teaches wherein said image (image data **54**) is provided to said website (photo service site **16**) and said service provider in a JPEG format (see at least paragraphs 14 and 17 of Robinson et al.) It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Shiimori et al. in view of McIntyre to provide the image in a JPEG format as taught by Robinson et al. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Shiimori et al. in view of McIntyre in this way since image data is typically stored in JPEG format (see paragraph 17 of Robinson et al.).

Claims 7, 8, 11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shiimori et al. in view of McIntyre, as applied to claim 1 above, further in view of Bernius et al. (JP 2003-141024 – English Translation).

Claim 7 –

Shiimori et al. in view of McIntyre teaches the system of claim 1 as described above.

Shiimori et al. in view of McIntyre does not explicitly disclose a method having the limitation of:

- wherein said image is displayed at said publicly accessible website in a diary format.

Bernius et al. teaches wherein said image is displayed at said website in a diary format (see bulletin board **20** in the abstract, paragraphs 1-9 of the detailed description, Claim 1 and Fig. 1-3 of Bernius et al.). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Shiimori et al. in view of McIntyre to display the pictures in a discussion board as taught by Bernius et al. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Shiimori et al. in view of McIntyre in this way in order to provide a Web site bulletin for uploading pictures and providing a more advanced discussion forum (see [0001] of Bernius et al.).

Claim 8 –

Shiimori et al. in view of McIntyre teaches the system of claim 1 as described above.

Shiimori et al. in view of McIntyre does not explicitly disclose a method having the limitation of:

- wherein software is provided on said user computer for use in creating a web log at said accessible website.

Bernius et al. teaches wherein software is provided on said user computer for use in creating a web log at said accessible website (see at least paragraphs 7-11 of the Detailed Description and Drawings 1-3 of Bernius et al.). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Shiimori et al. in view of McIntyre to use provided software in creating a web log. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Shiimori et al. in view of McIntyre in this way to enable an easy application for a user to add a picture to a bulletin board (see paragraph 4 of The Technical Problem of Bernius et al.) and provides for uploading pictures and providing a more advanced discussion forum (see [0001] of Bernius et al.).

Claim 11 –

Shiimori et al. in view of McIntyre, further in view of Bernius et al. teaches the system of claim 8 as described above.

Shiimori et al. in view of McIntyre does not explicitly disclose a method having the limitation of:

- A method according to claim 8 wherein said software allows appending of existing web log with new images and new log entries.

Bernius et al. teaches wherein software is provided on said user computer for use in appending a web log at said accessible website (see at least paragraphs 7-11 of the Detailed Description and Drawings 1-3 of Bernius et al.). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Shiimori et al. in view of McIntyre to use provided software in creating a web log. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Shiimori et al. in view of McIntyre in this way to enable an easy application for a user to add a picture to a bulletin board (see paragraph 4 of The Technical Problem of Bernius et al.) and allows for uploading pictures and providing a more advanced discussion forum (see [0001] of Bernius et al.).

Claim 18 –

Shiimori et al. in view of McIntyre teaches the computer readable medium of claim 12 as described above.

Shiimori et al. in view of McIntyre does not explicitly disclose a method having the limitation of:

- wherein said image is displayed at said publicly accessible website in a diary format.

Bernius et al. teaches wherein said image is displayed at said publicly accessible website in a diary format (see bulletin board **20** in the abstract, paragraphs 1-9 of the detailed description, Claim 1 and Fig. 1-3 of Bernius et al.). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Shiimori et al. in view of McIntyre to display the pictures in a discussion board as taught by Bernius et al. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Shiimori et al. in view of McIntyre in this way in order to provide a Web site bulletin for uploading pictures and providing a more advanced discussion forum (see [0001] of Bernius et al.).

Claims 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shiimori et al. in view of McIntyre, as applied to claim 9 above, further in view of Patton et al. (US 6,408,301 B1).

Claim 10 –

Shiimori et al. in view of McIntyre teaches the system of claim 9 as described above.

Shiimori et al. in view of McIntyre does not explicitly disclose a method having the limitation of:

- wherein said identification comprises a voice activated command with respect to said capture device.

Patton et al. teaches wherein said identification (indexing) comprises a voice activated command with respect to said capture device (image capturing) (see col. 1, ll. 48-63 of Patton et al.). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Shiimori et al. in view of McIntyre to use orally recorded alpha-numeric designations as a means to index, store, sort, or retrieve images, sounds, or videos sequences. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Shiimori et al. in view of McIntyre in this way in order to make the retrieval process of an image less tedious and time consuming (see col. 1, ll. 33-36 of Patton et al.).

Claim 20 –

Shiimori et al. in view of McIntyre teaches the computer readable medium of claim 19 as described above.

Shiimori et al. in view of McIntyre does not explicitly disclose a method having the limitation of:

- wherein said identification comprises a voice activated command with respect to said capture device.

Patton et al. teaches wherein said identification (indexing) comprises a voice activated command with respect to said capture device (image capturing) (see col. 1, ll. 48-63 of Patton et al.). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Shiimori et al. in view of McIntyre to use orally recorded alpha-numeric designations as a means to index, store, sort, or retrieve images, sounds, or videos sequences. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Shiimori et al. in view of McIntyre in this way in order to make the retrieval process of an image less tedious and time consuming (see col. 1, ll. 33-36 of Patton et al.).

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shiimori et al. (US 2002/0091766 A1) in view of Anderson (US 2002/0087622 A1).

Claim 22 –

As per Claim 22, Shiimori discloses a method for providing image goods and/or services over a communication network, comprising the steps of:

- providing an action button (menu button **171**) on the hosting website that is associated with the fulfillment provider's network address and with the storage location, and that, when activated by a viewing device coupled to the network and accessing the hosting website, provides to the viewing device an order screen from the fulfillment provider, the order screen for placing an order over the communication network directly with said fulfillment provider for goods and/or services with respect to said high resolution digital image stored on a storage device at the fulfillment provider. (see paragraphs 147-151; Fig. 17 and 18)
- the unique ID (contributor ID) associated with a network connected fulfillment provider's network address on the communication network (see paragraphs 85, 87, 90, 93 and 94; Fig. 7-10)

Shiimori et al. does not explicitly disclose:

- providing a hosting website coupled to the communication network;
- receiving at the hosting website a low resolution digital copy, sent over the communication network by a user device, of a high resolution digital image, the low resolution digital copy including an unique ID, the unique ID associated a storage location on a storage device at the fulfillment provider that contains the high resolution digital image;

Anderson teaches providing a hosting website coupled to the communication network (see paragraph 43; Fig. 1 of Anderson); receiving at the hosting website a low resolution digital copy, sent over the communication network by a user device, of a high resolution digital image, the low resolution digital copy including an unique ID (image IDs **56**), the unique ID associated a storage location on a storage device at the fulfillment provider that contains the high resolution digital image (see paragraphs 43-46 and 51 of Anderson). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method Shiimori et al. to include providing a website coupled to a network and receiving a low resolution copy of a high resolution image with a unique ID as taught by Anderson. One of ordinary skill in the art at the time of the invention would have been motivated to expand the system of Shiimori et al. in this way to make intelligent decisions about what functions to perform on the user's images regardless of the images' storage locations (see at least paragraph 18 of Anderson).

Response to Arguments

Applicant's arguments with respect to Shiimori's disclosure of the limitations of claims 1, 12 and 22 have been fully considered but they are not persuasive. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Applicant has simply stated a summary of elements of the Shiimori reference and asserted that Shiimori does not disclose the claimed limitations in claims 1, 12 and 22. Applicant has failed to point out what, specifically, distinguishes the claimed limitations from the Shiimori reference.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RESHA DESAI whose telephone number is (571)270-7792. The examiner can normally be reached on Monday-Thursday 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey A. Smith/
Supervisory Patent Examiner, Art Unit 3625

/R. D./
Examiner, Art Unit 3625